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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/529,165	09/30/2005	Yasunori Matsui	SONYJP 3.3-337	4214

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EXAMINER	
YOUNG, JANELLE N	
ART UNIT	PAPER NUMBER
2618	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/29/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/529,165	MATSUI ET AL.	
	Examiner	Art Unit	
	Janelle N. Young	2618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *15 November 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-4* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-4* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *24 March 2005* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. Applicant's arguments with respect to claims 1-4 have been considered but are moot in view of the new ground(s) of rejection.

Tymes et al. teaches a wireless communication terminal that determining means for determining whether said base station selected by said selecting means is already delivering predetermined data and switchover controlling means which, if the detected radio wave reception level from said detecting means drops below a predetermined level, then causes said selecting means to switch to other base stations consecutively for communication while checking each base station selected for the radio wave reception level thereof and for ongoing delivery of said predetermined therefrom (Col. 5, lines 8-23; Col. 17, lines 1-32; Col. 18, lines 11-22; and Col. 23, line 49 in respect to Col. 29, line 29-Col. 30, line 5 of Tymes et al.).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fukawa (US Patent 5568654) and further in view of Tymes et al. (US Patent 5668803).

As for claim 1, Fukawa teaches a wireless communication terminal comprising: selecting means for selecting a base station with which to communicate; detecting means for detecting a radio wave reception level of the base station selected by said selecting means; and selection controlling means which, if the detected radio wave reception level from said detecting means drops below said predetermined level during reception of said predetermined data, then causes said selecting means preferentially to select a base station which is delivering said predetermined data and which offers a radio wave reception level higher than said predetermined level, based on the radio wave reception level of each base station selected and on the ongoing delivery of said predetermined data therefrom (Abstract; Col. 1, lines 26-49; Col. 2, line 52-Col. 3, line 12; Col. 12, lines 47-65; and Col. 13, lines 35-64 of Fukawa).

What Fukawa does not explicitly teach is a wireless communication terminal that checks whether a new base station is already transmitting the particular data needed by the receiving device.

However, Tymes et al. teaches a wireless communication terminal that determining means for determining whether said base station selected by said selecting means is already delivering predetermined data and switchover controlling means which, if the detected radio wave reception level from said detecting means drops below a predetermined level, then causes said selecting means to switch to other base stations consecutively for communication while checking each base station selected for the radio wave reception level thereof and for ongoing delivery of said predetermined

therefrom (Col. 5, lines 8-23; Col. 17, lines 1-32; Col. 18, lines 11-22; and Col. 23, line 49 in respect to Col. 29, line 29-Col. 30, line 5 of Tymes et al.).

It would have been obvious to one of ordinary skill of the art at the time the invention was made to incorporate a protocol for packet data communication system, as taught by Tymes et al., in the mobile radio telecommunication system of Fukawa, because Fukawa already teaches checking each base station for the radio wave reception level and/or the signal strength (Abstract of Fukawa).

The motivation of this combination would be to provide a mobile radio telecommunication system having unique zone architecture and channel assignment, as taught by Fukawa in Col. 2, lines 52-58, because it would allow the base stations to be situated relatively easily, free base stations, and mobile stations from extra loads. The combination would provide an improved, low-cost, low-power, packet data communication network in which a number of remote terminal units are in a form of two-way communication with a central station, preferably a network using an RF link or the like so that the remote units may move about freely in an area to be covered by the network (Col. 3, lines 6-29 of Tymes et al.). The incorporation of protocol for packet data communication system with mobile radio telecommunication system would allow the transceiver/ base station to operate continuously and recognize incoming signals at any time rather than being off most of the time (Col. 17, lines 25-29 of Tymes et al.).

As for claim 2, Fukawa teaches a wireless communication terminal, wherein said predetermined data includes at least any of video and audio data and other mass data

being delivered continuously via said base stations (Col. 5, lines 62-66; Col. 6, lines 25-30 & 55-63; and Col. 6, line 67-Col. 7, line 6 of Fukawa).

Regarding claim 3, see explanation as set forth regarding claim 1 (device claim) because the claimed method for planning a wireless communication terminal would perform the device steps.

Regarding claim 4, see explanation as set forth regarding claim 2 (device claim) because the claimed method for planning a wireless communication terminal perform the device steps.

Conclusion

3. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janelle N. Young whose telephone number is (571) 272-2836. The examiner can normally be reached on Monday through Friday: 8:30 am through 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung can be reached on (571) 272-7882. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JNY
January 11, 2007

NAY MAUNG
SUPERVISORY PATENT EXAMINER